**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929**

**WP(C).No. 6311 of 2005(B)**
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**PETITIONER:**
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**SETHUNATHA SHARMA, VADASSERY MANA,**
**CLAPANA POST, KARUNAGAPPALLY, KOLLAM DISTRICT.**

**BY ADV. SRI.B.KRISHNA MANI**

**RESPONDENTS:**
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1. **THE SECRETARY, KULASEKHARAPURAM GRAMA PANCHAYATH, ADINAD NORTH POST, KARUNAGAPPALLY, KOLLAM DISTRICT.**

2. **THE KULASEKHARAPURAM GRAMA PANCHAYAT ADINAD NORTH POST, KARUNAGAPPALLY, KOLLAM DISTRICT, REPRESENTED BY ITS SECRETARY.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C) NO.6311/2005**

**EXT.P1:- COPY OF THE PARTITION DEED DT. 15TH EDAVAM 1124 OF KRISHNAPURAM SUB REGISTRY.**

**EXT.P2:- COPY OF THE ROUGH SKETCH.**

**/TRUE COPY/**

**P.A. TO JUDGE**

**tss**

**K.BALAKRISHNAN NAIR, J.**

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Writ Petition (C) No.6311 of 2005-B

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Judgment

The petitioner's family owns one acre 88 cents of property in Survey No.374 of Kulasekharapuram village in Kollam district. A Bhagavathi temple is located in the said plot of land. The 1st respondent herein, the Secretary of Kulasekharapuram panchayat and the 2nd respondent the Kulasekharapuram panchayat took steps to cut open a pathway through the northern boundary of the above said property without the permission of the owners of the property. No acquisition steps were also taken. In the above background, this Writ Petition was filed, seeking the following reliefs :

"i. Issue a writ of mandamus or any other appropriate writ, direction or order, directing the respondents not to construct any road in one acre 88 cents of property in Survey No.3674 of Kulasekharapuram village.

ii. Issue an interim direction, directing the respondents not to construct any road in one acre 88 cents of property in sy.No.3674 of Kulasekharapuram village."

Though notice was ordered by special messenger on the respondents, no one

appeared for them. Having regard to the facts of the case, it is ordered that through the aforementioned property, road if any, can be opened, only with the consent of the land owners. If they are not agreeing to the opening of the road, the same can be done, only after acquiring the land in accordance with law.

The Writ Petition is disposed of as above.

10.12.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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